

Appln. No. 09/956,888
Reply to the Office Action of June 23, 2004

REMARKS

Claims 5, 17, 19 and 20 have been canceled. Claims 1, 3, 6, 13-16 and new Claim 21 remain active in the case. Reconsideration is respectfully requested.

The present invention relates to a hair cosmetic composition.

Specification Amendment

The objection to the specification under 35 USC 132 is obviated by the amendment to the text which deletes the Greek letter prior to methyl ionone. Withdrawal of the objection is respectfully requested.

Claim Amendments

Claim 1 has been amended to recite that the content of fragrance ingredient (A) in the composition ranges from 0.1 to 1.0 % as disclosed at the top of page 4 of the text and that the amount of monoethanolamine in the composition ranges up to 3.0 % as disclosed on page 4 of the text. (Note that here the disclosure here refers to ammonia. However, the equivalence of ammonia and monoethanolamine is taught on page 2, lines 12-13 and 19-20 of the text.

Claim 3 has been amended so that it is consistent with the amendment to the specification.

New Claim 21 is directed to a method of improving the odor of a monoethanolamine containing hair cosmetic formulation by combining in the formulation (i) an amount of fragrance ingredient (A) ranging from 0.1 to 1.0 % by wt that contains from 20 to 50 wt % of

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cis-3-hexenol and (ii) an amount of up to 3.0 % by wt. monoethanolamine, the formulation having a pH ranging from 8 to 12. Support for the new claim is found in the active claims and in the discussion on page 2 of the specification. Entry of the amendments and new claim is respectfully requested.

Claim Rejection, 35 USC 112, First Paragraph

As to the matter of the range of 20 to 50 % of cis-3-hexenol in the fragrance component (A), while it is true that the range is not per se specifically disclosed in the specification, nevertheless, the specific content of 20 % for cis-3-hexenol is disclosed on page 9 of the text as the amount of cis-3-hexenol in Fragrance formula (A). On the basis of this disclosure applicants have limited (narrowed) the claimed range of hexenol content as indicated using the 20 % value as the minimum content of cis-3-hexenol in the fragrance ingredient (A). It is submitted that applicants are permitted to formulate such a range since support for the claimed upper and lower values of the range is found in the specification. Accordingly, withdrawal of issue is respectfully requested.

Applicants have amended Claim 3 in the manner in which they have amended the specification. Thus, the Greek letter objected to has been deleted.

Claim Rejection, 35 USC 112, Second Paragraph

Claim 3 has been amended by deleting the questioned term from the claim.

As to the matter of Claims 5 and 6 (the limitation of Claim 5 is now found in Claim 1), applicants believe that the Examiner has not discerned the distinction between the amount of

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cis-3-hexenol in the fragrance ingredient (A), on the one hand, and the amount of fragrance ingredient in the composition, on the other hand. The subject matter of Claims 5 and 6 is consistent with the disclosure of the text and is correct. Withdrawal of the rejection is respectfully requested.

The amendment to Claim 16 obviates the issue that has been raised.

Invention

The present invention is directed to a hair cosmetic composition which contains the specific combination of monoethanolamine (a base constituent of the hair cosmetic formulation) and cis-3-hexenol (a fragrance component). It is the discovery of the present invention that when monoethanolamine is present in a hair cosmetic formulation that includes oxidation dye compositions, the distinctive objectionable odor of monoethanolamine is eliminated by the inclusion of not just any fragrance compound, but cis-3-hexenol specifically. In fact, the odor of the composition that results is distinctive and is such that the odor of monoethanolamine is not detectable. Accordingly, the composition is directed to an oxidation hair coloring or hair bleaching formulation that comprises (A) a fragrance ingredient that is present in the formulation in an amount of 0.1 to 1.0 % by wt that contains from 20 to 50 % by wt cis-3-hexenol and (B) up to 3.0 % by wt monoethanolamine, the formulation having a pH ranging from 8 to 12 and the interaction of monoethanolamine and cis-3-hexenol producing a desirable fragrance in which the odor of monoethanolamine is effectively masked.

Another embodiment of the invention as claimed in Claim 21 is directed to a method of improving the odor of a monoethanolamine containing hair cosmetic formulation by

combining, in the formulation, (i) an amount of fragrance ingredient (A) ranging from 0.1 to 1.0 % by wt that contains from 20 to 50 wt % of cis-3-hexenol and (ii) an amount of up to 3.0 % by wt. monoethanolamine. The formulation has a pH ranging from 8 to 12 and the interaction of monoethanolamine and cis-3-hexenol produces a desirable fragrance that effectively masks the odor of monoethanolamine.

Prior Art Rejection

Claims 1-3, 5, 6, 13-17, 19 and 20 stand rejected based on 35 USC 103(a) as obvious over GB 2033939 in view of XP-002226338. This ground of rejection is respectfully traversed.

Although it is clear that the '939 patent discloses a hair bleaching composition which in some embodiments of Examples 1-3 contains monoethanolamine, which is a common ingredient in hair cosmetic formulations, none of the examples show the presence of a fragrance, and certainly not cis-3-hexenol. The patent at page 3, lines 114-118 teaches that among excipients that can be added to the disclosed hair treatment formulations, perfumes are suitable such excipients. However, there is no mention of cis-3-hexenol as a perfume or fragrance. This deficiency is critical because the effect of the present invention is specific in that cis-3-hexenol has a specific ability to mask the odor of monoethanolamine to not only eliminate any detectable scent of the monoethanolamine, but to actually give rise to a specifically different, but pleasant, odor. Thus, there is nothing in the patent that would lead one of skill in the art to specifically add cis-3-hexenol to the monoethanolamine containing compositions exemplified in the patent.

The Examiner comments on page 6 of the Office Action that the British patent teaches in column 2 of page 3 that suitable ingredients can be added to the hair treatment compositions

in amounts up to about 20 % which include perfumes, thereby teaching the lower 20 % limit of cis-3-hexenol of the present claims. However, this is not what the present claims state. Note that the claims require that the amount of fragrance ingredient (A), of which cis-3-hexenol is a component, ranges from 0.1 to 1.0 % by wt. The amount of cis-3-hexenol that is added is from 20 to 50 % by wt of the fragrance ingredient (A). The '939 patent does **not** teach or suggest this limitation. Moreover, it is interesting to note that it is the ammonia containing formulations of Examples 4 and 6 of the patent that contain a fragrance ingredient, not Examples 1-3 which contain monoethanolamine.

The deficiencies of the '939 patent are neither overcome nor improved by the '338 reference. The '338 document only teaches what is well known and that is a variety of fragrances have been incorporated in cosmetic compositions to mask or deodorize the smell of **ammonia** that is emitted from various cosmetic compositions that contain **ammonia**. Suitable deodorants include cis-3-hexenol. However, there is no teaching or suggestion in the reference that cis-3-hexenol, specifically, has the ability to completely mask the odor of monoethanolamine from a cosmetic composition, and, in fact, so modify the odor characteristics of a monoethanolamine containing composition that a completely different odor uncharacteristic of both monoethanolamine and cis-3-hexenol results. Accordingly, the combination of the references does not suggest the invention as claimed in any of its embodiments and withdrawal of the rejection is respectfully requested.

Claims 1-3, 5, 6 and 13-20 stand rejected based on 35 USC 103(a) as obvious over Yoshida et al in view of Fragrance Journal. This ground of rejection is respectfully traversed.

The Yoshida et al patent is believed of limited relevance to the present invention

because the essence of the disclosure is the use of succinoglycan, as a water soluble polymer, in hair dye compositions of two basic types, one of which is an acidic hair composition and the other is an oxidation hair dye composition. Of the two types of compositions, the acidic type is irrelevant to the present invention, as such is acidic in which environment the base ingredients of ammonia or monoethanolamine would not be incorporated. The second type, or oxidation hair dye composition, is of the type of the present invention and as such various bases including ammonia and monoethanolamine (col 8, lines 35-43) are incorporated in such oxidation hair treatment compositions as a base. Of the examples in the patent, only those of columns 21-25 are of the oxidation type and only one of which, Example B4, contains monoethanolamine. While this example is said to contain a perfume, there is no teaching of any specific fragrance, and certainly not cis-3-hexenol. Nor is there a specified amount of fragrance in the example. Clearly, one of skill in the art would in no way be led to specifically incorporate cis-3-hexenol as a fragrance in an oxidation dye composition of the patent that contains monoethanolamine as an alkali ingredient, especially with the expectation of the production of a hair treatment formulation that has a characteristic fresh odor in which the odor of monoethanolamine can not be detected.

The deficiencies of Yoshida et al are neither overcome nor improved upon by Fragrance Journal. The disclosure of the journal publication only shows that the addition of a fragrance such as cis-3-hexenol is useful as an odor masking agent in a hair treatment formulation that contains ammonia and ammonium thioglycolate. There is no teaching or suggestion of an oxidation-type of hair treatment formulation that contains specifically only cis-3-hexenol as a fragrance which masks the odor of monoethanolamine as an alkali agent in the composition. In

fact, it is clear that in the masking of the ammonia odor of the composition embodiments of the reference, cis-3-hexenol is completely equivalent to a number of other fragrances which include citronellol, geraniol, linalool and the like. On the other hand, there is no such equivalency in the present invention where cis-3-hexenol stands alone in its ability to mask the odor of monoethanolamine, as opposed to other fragrances, to the extent of providing a product composition that has a distinctly different and unique odor.

The disclosure of the Mussinan et al patent is clearly of secondary interest of the prior art that has been cited because the objective of the patent is to augment or enhance the flavors and/or fragrances of such consumable materials as perfumes, perfumed articles, colognes, foodstuffs, chewing gums, toothpastes, medicinal products and smoking tobaccos by adding thereto small amounts of at least one compound that is cis-3-hexenal (not cis-3-hexenol) and the methyl ether of cis-3-hexenol. Some formulations also contain cis-3-hexenol esters as described in columns 5 and 6 of the patent. Nowhere, however, is a hair treatment formulation such as an oxidation hair coloring or hair bleaching formulation taught in the reference, although a brief mention of shampoo is mentioned at column 11, line 64. Certainly there is no teaching or suggestion of the presence of cis-3-hexenol in a hair treatment formulation that contains monoethanolamine. Accordingly, Mussinan et al does not improve upon the deficiencies of the above discussed references, and withdrawal of the rejection is respectfully requested.

Double Patenting Rejection

Applicants note that the double patenting ground of rejection that has been raised, based

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on Claims 1-7 of copending application Serial No. 10/404,083, is a provisional rejection.

Accordingly, once allowable subject matter in either or both of the applications has been identified, applicants will take action that is appropriate to overcome the rejection.

It is believed that the application is in condition for allowance. Early notice to this effect is earnestly solicited.

Respectfully submitted,

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